



OLENE S. WALKER
Governor
GAYLE F. McKEACHNIE
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

ROBERT L. MORGAN
Executive Director

JERRY D. OLDS
State Engineer/Division Director

STATE OF UTAH
DIVISION OF WATER RIGHTS

DIVISION OF WATER RIGHTS,
JERRY D. OLDS
STATE ENGINEER,

Claimant

v.

McKeon Beef

Respondent.

NOTICE OF AGENCY ACTION
ILLEGAL USE OF WATER IN EXCESS OF
WATER RIGHT
No. SEAA1095

Water Right Nos. 71-101, 71-4549

TO: McKeon Beef:

The State of Utah, Division of Water Rights ("Division") notifies you that it is commencing an adjudicative proceeding in accordance with Chapter 46b, Title 63, U.C.A. 1953, Utah Administrative Procedures Act, and Division of Water Rights Rules, to determine one or more of the following:

1. Whether McKeon Beef has exceeded the irrigation acre limitations as set forth in the water rights listed above.
2. Whether the State Engineer should issue an Order to Cease the Use of Water forbidding McKeon Beef to irrigate those areas that are in excess of the irrigated acres described in the water rights listed above.

The Division has authority and jurisdiction to maintain this action under Sections 73-2-1, 73-2-1.1, and Chapter 5, Title 73, Administration and Distribution, U.C.A. 1953. The proceeding will be conducted informally according to rules adopted under Sections 63-46b-4 and 63-45b-5.

ALLEGED FACTS

1. In 1996 the Division began implementing a method of regulating water use by regulating irrigated acreage instead of requiring and reading water meters.

2. In mid June 2002, the Division obtained aerial photography of the irrigated land in the Milford area that included the land irrigated by McKeon Beef.
3. The aerial photography was scanned and the irrigated areas were digitized and compared with the irrigated areas shown on the updated water rights map.
4. A comparison of the aerial photography and the updated water rights map shows that during 2004 McKeon Beef irrigated 7.99 acres more than allowed by the water rights listed above. The attached map shows the location and extent of the illegally irrigated land.
5. The estimated dollar value of the irrigation without a water right (7.99 acres) is \$5,593.00.

PARTICIPATION

To participate in this proceeding you must provide information related to the above **ALLEGED FACTS**. Further, if you do not participate as described in the following paragraphs, a default order will be entered.

1. You must either provide relevant information or request a hearing. Relevant information must be mailed or delivered to the Presiding Officer within **30** days from the date of service.
2. If you request a hearing without providing sufficient information to the Presiding Officer, you will be ordered to participate in a preliminary conference. At this conference you must provide information to help clarify the issues.
3. If a Notice of Hearing is mailed to you, you must attend the hearing as scheduled in the notice.
4. Reasonable accommodations per Americans with Disabilities Act available with minimum 3 days advance notice.

DEFAULT

If you fail to participate as required above, the Presiding Officer will decide all issues raised by this notice without your participation and will enter a default order. Authority to default for failure to participate may be found in Section 63-46b-11 U.C.A. 1953, Subsection 63-46b-1(4)(a), and Rule R655-6-13, Utah Administrative Code.

HEARING

You may request a hearing within 10 days from the date of service on any issue of fact raised by this notice.

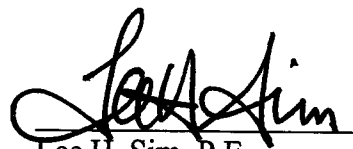
Even if you mail information to the Presiding Officer, the time to request a hearing will not be extended, unless the Presiding Officer gives you notice of an extension in writing.

If you decide to request a hearing, make your request in writing to the Presiding Officer named at the end of this document.

All telephone calls and mail concerning this action should be directed to:

Lee H. Sim, Assistant State Engineer
For
Jerry Olds, State Engineer
Utah Division of Water Rights
Salt Lake City, Utah 84114-6300
Telephone: (801) 538-7380
Fax Number: (801) 538-7467

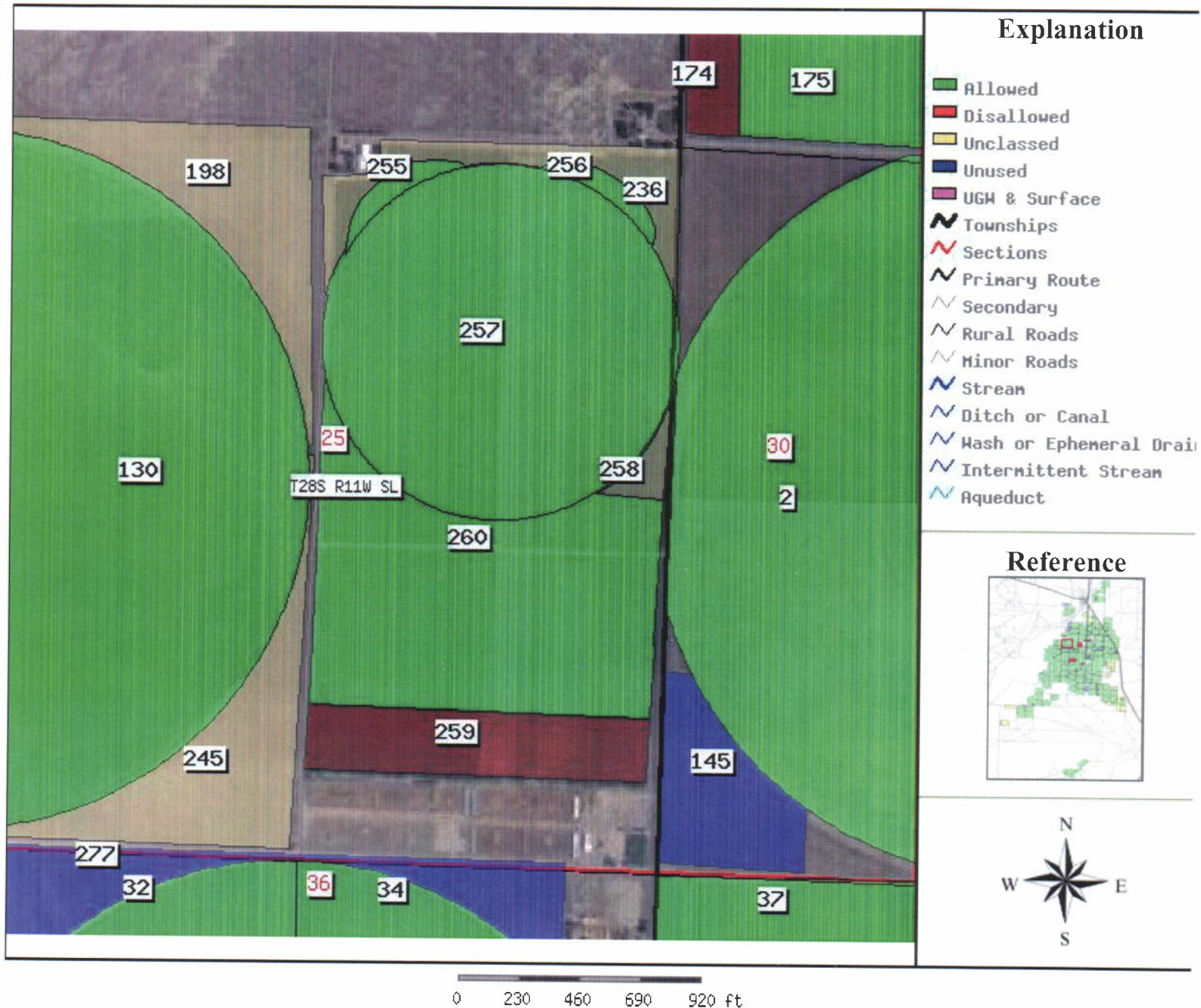
Dated this 7 day of JANUARY, 2005



Lee H. Sim, P.E.
Assistant State Engineer
Presiding Officer
For
Jerry Olds, P.E.
State Engineer

cc: Kerry Carpenter, Regional Engineer
Heather Shilton, Assistant Attorney General
LaVar Davis, Water Commissioner

Utah Division of Water Rights



ID	Owner Name	Water Right Number	Acres	Status
259	McKeon Beef Inc.	No Water Rights	7.99	Disallowed
260	McKeon Beef Inc.	71-101 71-4549 t28859	23.61	Allowed